

1 Michael P. Kenny, Esq. (admitted *pro hac vice*)
mike.kenny@alston.com
2 Debra D. Bernstein, Esq. (admitted *pro hac vice*)
debra.bernstein@alston.com
3 Rodney J. Ganske, Esq. (admitted *pro hac vice*)
rod.ganske@alston.com
4 Andrew J. Tuck, Esq. (admitted *pro hac vice*)
Andy.tuck@alston.com
5 **ALSTON & BIRD LLP**
1201 West Peachtree Street
6 Atlanta, Georgia 30309-3424
Tel: (404) 881-7000
7 Facsimile: (404) 881-7777

8 James M. Wagstaffe, Esq. (State Bar No. 95535)
wagstaffe@kerrwagstaffe.com
9 **KERR & WAGSTAFFE LLP**
100 Spear Street, 18th Floor
10 San Francisco, CA 94105-1576
TEL: (415) 371-8500
11 FAX: (415) 371-0500

12 *Attorneys for Plaintiffs Dell Inc. and Dell Products L.P.*

13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 IN RE: OPTICAL DISK DRIVE PRODUCTS
17 ANTITRUST LITIGATION

Case No.: 3:13-cv-03350-RS

MDL No. 2143

18 This Document Relates to:

19 *Dell Inc. and Dell Products L.P. v. Hitachi-LG*
20 *Data Storage Inc., et al.*, No. 3:13-cv-03350-RS

**JOINT STIPULATION AND [~~PROPOSED~~]
ORDER REGARDING MODIFICATION
OF BRIEFING SCHEDULE FOR
DISPOSITIVE MOTIONS SPECIFIC TO
THE DELL ACTION**

Hon. Richard Seeborg

1 Plaintiffs Dell Inc. and Dell Products L.P. (collectively, “Dell”), and Defendants Samsung
2 Electronics Co., Ltd., Samsung Electronics America Inc., Toshiba Corporation, Toshiba Samsung
3 Storage Technology Corp., Toshiba Samsung Storage Technology Korea Corp., and Toshiba
4 America Information Systems, Inc. (collectively, “Samsung and Toshiba Defendants”), by and
5 through undersigned counsel, stipulate and agree to the below:

6 WHEREAS, on January 25, 2017, this Court entered a Case Management Order (“Case
7 Management Order”) setting a schedule for summary judgment motions and other deadlines in the
8 multi-district litigation styled *In re Optical Disk Drive Antitrust Litig.*, MDL No 2143 (the “MDL”)
9 (Dkt. No. 2211);

10 WHEREAS, the Case Management Order set a June 30, 2017 deadline for dispositive
11 motion(s) in the MDL;

12 WHEREAS, the Case Management Order set a July 21, 2017 deadline for *Daubert* motions in
13 the MDL;

14 WHEREAS, Dell has reached an agreement in principle with the Samsung and Toshiba
15 Defendants concerning a resolution between Dell and the Samsung and Toshiba Defendants;

16 WHEREAS, in order to complete settlement negotiations and finalize the terms of any
17 settlement agreement, and in the interests of judicial economy, Dell and the Samsung and Toshiba
18 Defendants request that the Court temporarily take off calendar the June 30 and July 21 deadlines for
19 Dell and the Samsung and Toshiba Defendants to file any dispositive and *Daubert* motions specific to
20 Dell in the Dell Action only (*Dell Inc. and Dell Products L.P. v. Hitachi-LG Data Storage Inc., et al.*,
21 No. 3:13-cv-03350-RS, the “Dell Action”);

22 WHEREAS, in the unlikely event that an agreement between Dell and the Samsung and
23 Toshiba Defendants is not reached, counsel for Dell and the Samsung and Toshiba Defendants agree
24 to meet and confer in good faith to agree on and submit a joint report regarding the need for a revised
25 briefing schedule, and (if necessary) a proposed revised briefing schedule, for dispositive and/or
26 *Daubert* motions specific to the Dell Action, no later than July 14, 2017;

27 WHEREAS, that joint report (if necessary) will ensure that any dispositive and/or *Daubert*
28 motion briefing specific to the Dell Action is fully submitted at least seven (7) days prior to any hearing

on dispositive motions which is set in the MDL to ensure that dispositive motions specific to the Dell Action could be heard on the same hearing date as other dispositive motions in the MDL; and

WHEREAS, nothing in this Stipulation alters or is intended to alter any other dates or Orders of this Court in the MDL or in any other individual or related action;

NOW, THEREFORE, IT IS HEREBY JOINTLY STIPULATED by and between the undersigned counsel for Dell and the Samsung and Toshiba Defendants, as follows:

1. The filing deadlines for Dell and the Samsung and Toshiba Defendants to file dispositive and *Daubert* motions specific to the Dell Action are taken off calendar. No later than July 14, 2017, Dell and the Toshiba and Samsung Defendants shall submit to this Court a joint report regarding the need for a revised briefing schedule, and (if necessary) a proposed revised briefing schedule, for dispositive and *Daubert* motions specific to the Dell Action.

IT IS SO STIPULATED.

Dated: June 28, 2017

ALSTON & BIRD LLP

Counsel for Plaintiffs Dell Inc. and Dell Products L.P.

/s/ Rodney J. Ganske

Dated: June 28, 2017

O'MELVENY & MYERS LLP

*Attorneys for Defendants Samsung Electronics Co., Ltd.
and Samsung Electronics America, Inc.*

/s/ Ian Simmons

Dated: June 28, 2017

LATHAM & WATKINS LLP

*Attorneys for Defendants Toshiba Corporation,
Toshiba Samsung Storage Technology Corp., Toshiba
Samsung Storage Technology Korea Corp., and
Toshiba America Information Systems, Inc.*

/s/ Belinda S Lee

ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained from each of the other signatories.

Dated: June 28, 2017

/s/ Rodney J. Ganske

1 **PURSUANT TO STIPULATION, AND WITH GOOD CAUSE APPEARING**
2 **THEREFORE, IT IS SO ORDERED**

3 DATED: 6/28/17



HONORABLE RICHARD G. SEEBORG
United States District Judge
Northern District of California